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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,272	11/30/2000	Rabindranath Dutta	AUS9-2000-0650-US1	5240

7590 01/27/2004

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EXAMINER

HEWITT II, CALVIN L

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/726,272

Applicant(s)

DUTTA, RABINDRANATH

Examin r

Calvin L Hewitt II

Art Unit

3621

-- The MAILING DATE of this c mmunication appears n the c ver sh t with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Status of Claims

1. Claims 37-72 have been examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 37-72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 37 recites the limitation recording "a sales record corresponding to the product sale request" in lines 18 and 19. Claims 49 and 61 also recite the above limitation. There is insufficient antecedent basis for this limitation in the claims.

Claims 38-48, 50-60 and 62-72 are also rejected as they depend from claims 37, 49 and 62 respectively.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 37-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pettitt, U.S. Patent No. 5,864,620.

As per claims 37-72, Pettitt teaches content distribution system comprising:

- obtaining at a third party receiving a plurality of digital works from a plurality of providers, storing the received digital work in a device accessible to the third party, receiving a request from a merchant, transmitting digital works from the third party to the merchant, wherein the merchant is adapted to provide the digital works to a user and recording a sales record corresponding to the product sale (abstract; figure 2; column 1, lines 12-31 and 47-63; column 3, lines 28-35)
- registering a merchant, and a merchant entering into an agreement with the third party (column 4, lines 1-5)
- providing the merchant with an authentication mechanism and authenticating the merchant (figure 4; column 4, lines 6-62)

- a notice to the third party notifying the third party when a user purchases a digital work from a merchant, the notice comprising a digital work and merchant identifier (figure 4; column 4, lines 6-62)
- identifying a royalty rate associated with the digital work, identifying a provider, a royalty rate associated with said provider and transferring funds to a provider (column 4, lines 15-20; column 5, lines 28-36)
- registering a provider with the third party the registering including an agreement regarding the use and payment for using digital works (column/line 3/5-4/5; column 5, lines 38-36)

However, Pettitt doesn't specifically recite implementing his system of a computer network, nor does Pettitt teach recording a sales record at a server. Robinson et al. teach a system for purchasing goods and services of a computer network comprising a merchant server for generating and storing digital sales receipts (figures 1-1, 1-2, 4, and 5; column 3, lines 42-59; column 6, lines 54-67). Regarding billing and royalty statements, Pettitt discloses a third party facilitating the exchange of payment between provider and merchant for services rendered in the sale of a digital work to a user (column 5, lines 29-36). Hence, it would have been obvious to provide each party with a statement detailing the transfer

of funds to and from payment accounts. The Examiner takes Official Notice that the existence and functionality of servers, non-volatile memory and plug-ins are well known to those of ordinary skill. Therefore, it would have been obvious to combine the teachings of Pettitt and Robinson et al. in order to more quickly and efficiently provide goods and services to users.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (703) 308-8057. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (703) 305-9768.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
c/o Technology Center 2100
Washington, D.C. 20231

or faxed to:

(703) 305-7687 (for formal communications intended for entry and after-final communications),

or:


(703) 746-5532 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 5,
2451 Crystal Drive, 7th Floor Receptionist.

Any inquiry of a general nature or relating to the status of this application
should be directed to the Group receptionist whose telephone number is (703)
308-1113.

Calvin Loyd Hewitt II

January 7, 2004



JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600